

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO. 14136 of 1996

BETWEEN:

Yembeti Rangaiah ... Petitioner

and

The District Collector, Nellore

And three others ... Respondents

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO. 14136 of 1996

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ORDER:

The case of the petitioner, who was the Surpanch of the Gram Panchayat, Isukapalem, is that the Government allotted plots to various people after acquiring Ac.4.00 cents of vacant land in S.No.481 and since he was not having any land, he occupied 23 ankanams in the aforesaid S.No.481 about 15 years prior to filing of the petition and raised a thatched house therein and was paying house tax from 1988 onwards and obtained electricity connection to the hut constructed by him therein and that the newly elected Surpanch, with a view to spite him, seems to have approached the Mandal Revenue Officer (second respondent) with a request to acquire the land in his possession for the purpose of construction of a water tank, though other vacant site is available for that

purpose, and so the respondents, who are trying to dispossess him from his hut in S.No.481 of Isukapalem may be restrained from dispossessing him.

2. Second respondent filed his counter affidavit on behalf of respondents inter alia contending that Ac.5.50 cents in Survey No. 24 and 38 of Thotapalligudur was acquired during 1980 for providing house sites to Scheduled Caste people and 101 plots out of 105 plots prepared were assigned to the beneficiaries of Isukapalem village earmarking the remaining four plots for public purpose, wherein a community hall was constructed, and all the beneficiaries constructed houses with the financial assistance of A.P. State Housing Corporation and since the western side portion of plot No.1 was found suitable for construction of the over head tank, it was earmarked as a separate plot and was allotted to the Gram Panchayat for construction of a overhead tank and since that plot was never in possession of anybody at any point of time and since petitioner owns Ac.1.61 cents in bit No.2 of Thotapalliguduru and since he did not make an application to the revenue authorities for allotment of a house site as he has a house in Isukapalem village, for which he is paying house taxes, petitioner is not entitled to any relief.

3. No reply affidavit is filed by the petitioner disputing the facts alleged in the counter affidavit of the second respondent.

4. The contention of the learned counsel for the petitioner is that since the petitioner is in possession of the plot in which the respondents are trying to construct a tank, interest of the petitioner in that land may be protected.

5. Since the averments in the counter affidavit filed by the second respondent disclose that the petitioner has a permanent house at Isukapalem village and since the petitioner did not file a reply affidavit denying the said fact, his contention that he has a thatched hut and is paying taxes thereto cannot be accepted, more so because the specific averment in the counter affidavit of the second respondent is that no house tax is being levied on thatched houses stands un rebutted. Similarly the fact that the petitioner has Ac.1.61 cents of land is also not denied or disputed by the petitioner.

6. The petitioner who was a Surpanch of Isukapalem village seems to be an educated man, as he affixed his signature to the affidavit filed in support of his

petition in English. It is not his case that he was ever allotted a plot for construction of any hut. It is his case that he 'occupied' the plot and raised a structure. Therefore, it is clear that he is an encroacher. He, being an encroacher, cannot be granted any relief by this court, more so, because the petitioner seems to be motivated and so, I find no merits in this petition.

7. Hence the petition is dismissed with costs.

C.Y. SOMAYAJULU, J.

Dated: 05-01-2006

Rns